IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.317 of 1999

Between:

K.Gopala Krishna Murthy, S/o.Sri Rama Murthy, 50 years, Archaka, R/o.Sidhantam Village, Penugonda (Mandal), West Godavari District.

...PETITIONER

AND

1. The Government of A.P., Rep.by its Secretary, Social Welfare Department, Secretariat, Hyderabad.
2. The Government of A.P., Rep.by its Secretary, Revenue Department, Secretariat, Hyderabad.
3. The Commissioner of Endowments, Tilak Road, Hyderabad.
4. The District Collector, West Godavari District, Eluru.
5. The M.R.O., Penugonda (Mandal), West Godavari District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or orders more particularly one in the nature of Writ of Mandamus to declare the action of the respondents in initiating the proceedings to acquire Ac.1.40 cents of land in R.S.Nos.269/1, 269/2, 269/3 and 269/4 of Sidhantham village, Penugonda (Mandal), West Godavari District, belongs to Nandeeswara swamy Temple, which is in the possession of last 50 years is illegal, arbitrary and unconstitutional and violative of mandatory provisions under Land Acquisition Act,

1894 and also declare that the acquisition proceedings initiated for acquire the above said land, which is in possession of the petitioner herein are violative of the guidelines, incorporated in G.O.M.S.No.456, dated 29.09.1995 and further direct the respondents to drop the proceedings in respect of the above said land.

Counsel for the Petitioner: SMT.A.BHARATA LAKSHMI

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

ORDER:

The petitioner is Archaka of Sri Nandeeswara Swamy Temple, Sidhantham Village in West Godavari District. The petitioner alleges that he is in possession of land admeasuring Ac.1.40 cents in R.S.Nos.269/1, 269/2, 269/3 and 269/4, which belongs to the said temple. It is his further case that though the guidelines are issued by the Government in G.O.Ms.No.456 dated 29.09.1995 for acquiring the temple lands for the purpose of house sites, the respondents without following the procedure are going to take the possession of the land. It is his further case that being a small farmer, the land in his possession cannot be acquired.

This Court, while admitting the Writ Petition on 12.01.1999, passed interim orders directing the respondents not to dispossess the petitioner. It is brought to the notice of this Court that even before the interim order could be communicated, a notification dated 22.01.1999 under Section 4 (1) of the Land acquisition Act, 1894 was issued and the same was published in newspapers on 30.01.1999. Therefore, the allegation that the lands are being acquired without due process of law stands rebutted. Be that as it is, as per the provisions of Section 82 (1) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 ('the Act' for brevity), the lease and license of the temple lands stands cancelled. If any person is tenant of temple land not exceeding Acs.2.50 cents of wet land or Acs.5.00 of dry land, such person has to seek declaration from Assistant Commissioner having jurisdiction as per Section 19 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003. Even than, the tenant cannot prevent the State from acquiring the temple land under the provisions of the Land Acquisition Act, 1894. If the petitioner is aggrieved, it is open to the petitioner to file a claim petition before the Land Acquisition Officer and participate in the award enquiry.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

9th August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of A.P., Social Welfare Department, Secretariat, Hyderabad.
2. The Secretary, Government of A.P., Revenue Department, Secretariat,

Hyderabad.

3. The Commissioner of Endowments, Tilak Road, Hyderabad.

4. The District Collector, West Godavari District, Eluru.

5. The M.R.O., Penugonda (Mandal), West Godavari District.

6. Two CCs to G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).

7. Two CD copies.